REMARKS

The Applicant thanks the Examiner for his close attention to this matter. Claims 1-18 and 23-25 are pending, and each is rejected by the present Office Action. Claim 1 is the independent claim of this group. Claim 1 has been amended to more clearly recite the structure of a "collection array," which is neither disclosed nor fairly suggested by any of the applied references. No change in scope of the claims has been made. Applicant respectfully suggests that the claims, as currently presented, are in condition for immediate allowance, and requests the same.

Rejection Under 35 U.S.C. § 102 Over Acker et al.

Claims 1 and 3-7 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent 6,605,084 to Acker et al. Claim 1 is the independent claim, and recites a catheter for removing core material in a blood vessel comprising a radially extendible collection array having collection lumens open to the blood vessel to receive core material at the periphery of the blood vessel, remove the core material from the blood vessel, and maintain the core material out of the blood vessel. In short, the collection array and the collection lumens collect material, and do not simply touch it or pass it on through the vessel. The other claims recite that the array is radially extendible and radially collapsible, and also recite particular mechanisms for achieving such extension or collapsing.

Acker has no structure for collecting. Rather, Acker discusses a device for thermal treatment of heart walls. The structure identified by the Office Action as corresponding to the radially extendible collection array is simply a closed-end bendable tube, or catheter. A transducer array is carried on the catheter to ablate tissue on the heart wall. *See* col. 17, lines 12-21 and 50-63. The Acker structure has no collection array, cannot receive core material from a blood vessel, and cannot remove any core material from the blood vessel. The collector array feature is a structural limitation that cannot be ignored. Also, the other limitations further define the structure of the collection array, requiring it to be of a form that can receive core material and remove the core material. It is wholly proper to further define a recited structure (the collection array) using terms that further recite the structure's operation. *See, e.g., Pac-Tec, Inc. v.*

Amerace Corp., 903 F.2dc 796 (Fed. Cir. 1990) (approving of parties' citations for rule that "functional language, in cases like the present, cannot be disregarded."). The cases cited in the Office Action (*Casey* and *Otto*) simply stand for the unremarkable proposition that statements about a claimed product's intended use are limitations to the extent they affect the product's structure. Here, the recited features do affect the structure, and even the structure itself is not shown in Acker. In short, Applicant respectfully submits that Acker does not mention, let alone fairly suggest, the features of the pending claims, and thus requests immediate allowance of the claims.

Rejection Under 35 U.S.C. § 102 Over Peacock III

Claims 1-18 and 23-25 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent 6,234,995 to Peacock III. Claim 1, discussed above, is the independent claim.

The Peacock patent shows a device for isolating a portion of a blood vessel, not one for collecting any material from the vessel. The patent (in Figure 3B) shows a balloon having an anchor 71 and a funnel 72. Blood flows into the funnel, though a central lumen, and then back out into the vessel on the opposite side of the isolated portion of the vessel (whether immediately or through a bypass pump). It essentially operates as a perfusion device that allows everything entering it to then exit downstream, past the point of interest. It thus collects nothing (it is not a collection array), and has no lumens or any other structures for removing core material from a blood vessel, and maintaining it out of the blood vessel.

The Office Action points to 46' as showing a collection port. This structure is actually a supply lumen for pumping up the anchor 71 (the patent calls 46' a "shunt valve actuating lumen"). Thus, it is basically the opposite of a collection port, and is not open to the blood vessel at all. Thus, Peacock does not discloses or even fairly suggest any structures that meet the requirements of the claims.

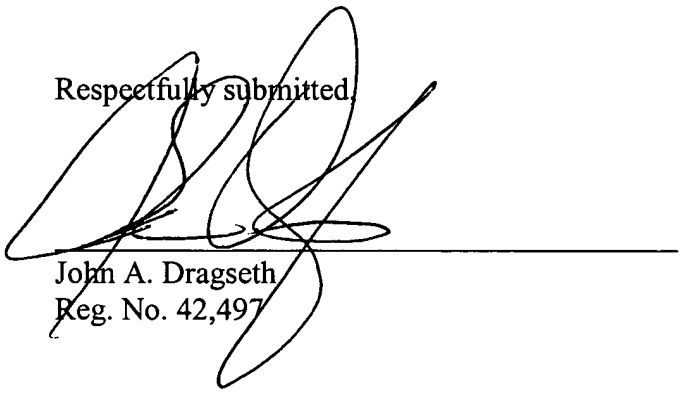
The dependent claims are even more different from Peacock. For example, claim 8 (and by extension, claims 9-12) recites that each lumen has two circumferential walls and two radial walls. The Peacock device, however, has no radial walls at all, and the Office Action does not

purport to find one in Peacock. Also, claim 16 recites a collection port that is directed radially (e.g., to be able to pull material off the vessel wall more effectively). In Peacock, the only opening of any kind is directed fully axially. The Office Action does not address this feature.

In sum, Peacock shows an isolation and blood by-pass device, whereas the pending claims recite devices for collection of core material. Because the Peacock device is directed to an entirely different purpose, it purposefully does ***not*** collect and maintain any such material, but instead directs everything it encounters back into the vessel (as a by-pass). Thus, Peacock neither discloses not fairly suggests the claimed inventions.

Enclosed is a $120 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,



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John A. Dragseth
Reg. No. 42,497

Fish & Richardson P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

60312497.doc